

Agricultural Marketing Service, USDA

§ 946.140

effect at the time of such shipment), loading point, destination and consignee.

[39 FR 1972, Jan. 16, 1974]

§ 946.123 Denial and appeals.

The committee may rescind a special purpose certificate issued to a handler for the purpose specified in § 946.120(a), or deny such special purpose certificates to a handler, upon proof satisfactory to the committee that such handler has shipped potatoes contrary to those provisions. Such committee action denying or rescinding a special purpose certificate shall apply to and not exceed a reasonable period of time as determined by the committee. Any handler who has been denied a special purpose certificate or who has had a special purpose certificate rescinded may appeal to the committee for reconsideration. Such appeal shall be in writing.

[39 FR 1972, Jan. 16, 1974]

MODIFICATION OF INSPECTION REQUIREMENTS

§ 946.130 Application.

Any handler whose packing facilities are located in an area where a Washington State Department of Agriculture, Plant Industry Division Office or Federal-State Inspector is not readily available to perform the inspection required by this part may, pursuant to § 946.60(a), apply to the committee for a permit authorizing modification of inspection requirements. Applications shall be made on forms furnished by the committee and shall contain such information as the committee, with approval of the Secretary, may find necessary in making a determination regarding the issuance of such permit.

[39 FR 1972, Jan. 16, 1974]

§ 946.131 Issuance.

The committee, or its duly authorized agents, shall give prompt consideration to each application for an inspection modification permit. Approval of an application shall be evidenced by the issuance of an applicable permit.

[39 FR 1972, Jan. 16, 1974]

§ 946.132 Reports.

Each handler shipping potatoes pursuant to an inspection modification permit shall report periodically as specified by the committee on forms furnished by the committee the following information on each shipment: quantity of potatoes, variety or varieties, grade, minimum size, type of container(s), date of shipment, carrier, destination, and name and address of receiver.

[39 FR 1972, Jan. 16, 1974]

§ 946.133 Cancellation.

Whenever the committee finds that shipments of potatoes pursuant to an inspection modification permit are not in accordance with the application provisions of the order, such inspection modification permit may be cancelled.

[39 FR 1972, Jan. 16, 1974]

§ 946.140 Handling potatoes for commercial processing into products.

Pursuant to § 946.54(a)(6), shipments of potatoes for commercial processing into products may be made only in accordance with paragraphs (a) or (b) of this section.

(a) Shipments may be made to persons whose names are on the State of Washington Potato Committee's list of manufacturers of potato products. Such list may consist of firms actively engaged in the business of canning, freezing, or "other processing" as defined in the act.

(1) Persons desiring to have their name placed on the committee's list shall apply to the committee. Such application shall contain the following:

- (i) Name and address of applicant;
- (ii) Location and description of facilities for commercial processing into products;
- (iii) Expected source of potatoes for commercial processing into products;
- (iv) Such other information as the committee, with approval of the Secretary, may deem necessary.

(2) Upon receipt of an application for such listing, the State of Washington Potato Committee shall make such investigation as it deems necessary, and if it appears that the applicant may reasonably be expected to use potatoes

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covered by the application in accordance with the requirements of this section, it shall place the applicant's name on the State of Washington Potato Committee's list of manufacturers of potato products.

(b) For each shipment to a person whose name is not on the committee's list, the handler must provide evidence to the committee prior to shipment that the potatoes will be used only for processing into products. Further, he shall submit reports as prescribed by the committee and approved by the Secretary.

[39 FR 1972, Jan. 16, 1974]

§ 946.141 Late payment and interest charge.

The Committee shall impose an interest charge on any handler who fails to pay his or her assessment within thirty (30) days of the billing date shown on the handler's assessment statement received from the Committee. The interest charge shall, after 30 days, be one percent of the unpaid assessment balance. In the event the handler fails to pay the delinquent assessment, the one percent interest charge shall be applied monthly thereafter to the unpaid balance, including any accumulated unpaid interest. Any amount paid by a handler as an assessment, including any charges imposed pursuant to this paragraph, shall be credited when the payment is received in the Committee office.

[60 FR 27683, May 25, 1995]

§ 946.142 Operating reserve.

(a) The Committee, with the approval of the Secretary, may carry over excess funds into subsequent fiscal periods as an operating reserve: *Provided*, That funds in the operating reserve may not exceed approximately two fiscal periods' expenses.

(b) The funds in said operating reserve may be used (1) to defray expenses incurred during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (2) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (3) to defray expenses incurred during any period when assessments are suspended

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or are inoperative and (4) to cover necessary expenses of liquidation in the event of termination of this part.

(c) Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the handlers from whom they were collected.

(d) Terms used in this section shall have the same meaning as when used in said marketing agreement and this part.

[32 FR 16199, Nov. 28, 1967. Redesignated at 44 FR 73012, Dec. 17, 1979; 60 FR 27683, May 25, 1995]

§ 946.248 Assessment rate.

On and after July 1, 1997, an assessment rate of \$0.002 per hundredweight is established for Washington potatoes.

[61 FR 20121, May 6, 1996, as amended at 62 FR 18023, Apr. 14, 1997]

Subpart—Handling Regulations

§ 946.336 Handling regulation.

No person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (g) of this section or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section, except that shipments of the blue or purple flesh varieties of potatoes shall be exempt from both this handling regulation and the assessment requirements specified in § 946.41.

(a) *Minimum quality requirements*—(1) *Grade: All varieties*—U.S. No. 2 or better grade.

(2) *Size*: (i) At least 1⅞ inches in diameter, except that all red, yellow fleshed, and white types may be 1 inch (25.4 mm) minimum diameter, if they otherwise meet the requirements of U.S. No. 1.

(ii) All Russet types, 2 inches (54.0 mm) minimum diameter, or 4 ounces minimum weight.

(iii) Any type of any size may be packed in a 3-pound or less container if the potatoes otherwise meet the requirements of U.S. No. 1 grade or better at the time of packing.